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DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

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December 5, 1990

Mr. Jeris A. Danielson, State Engineer  
Colorado Division of Water Resources  
1313 Sherman Street, Room 818  
Denver, CO 80203

Dear Jeris:

Re: Administration of 1958 Pot Creek  
Agreement

In 1989 we sent the Pot Creek River Commissioner our interpretation of the court decrees relating to distribution of water on Pot Creek. Copies of that correspondence were sent to your office, however, I am enclosing new copies on the off-chance the others were misplaced.

The Utah Division of Wildlife Resources either owns or has controlling interests in Crouse Reservoir, Matt Warner Reservoir, and Calder Reservoir. I believe that a diligent effort has been made over the past two years by our Water Rights staff in Vernal and by the Pot Creek Commissioner to deliver the fair portion of water due the water users in Colorado under their water rights. However, as you know, it has been extremely dry and very little of the water released to the Colorado Users has reached them.

Both Calder Reservoir and Matt Warner Reservoir have been re-constructed and enlarged. Matt Warner Reservoir was enlarged to store an additional 1000 AF under authorization of Utah water right 41-3039 with a priority date of July 16, 1962. Calder Reservoir was enlarged to the capacity allowed (1,500 AF) under its original water right (41-3040). Storage has not been allowed under these rights ahead of the Colorado users.

Chad Crosby, who has been serving as the Pot Creek Commissioner, is in fact an employee of the Utah Division of Wildlife Resources. I believe this arrangement was first entered into because Mr. Crosby's job placed him in the area and the water users felt the expenses of regulating the system could be kept down by using him. A committee of water users was formed in 1989 to investigate the needs of the distribution system and to determine the duties which should be required of the River Commissioner. The committee included Max Rasmussen, George Miller and Gary Sutton. To my knowledge the committee never met and did not make a report to the water users at the 1990 annual meeting. Therefore, the recommendation for the commissioner was determined by majority vote of those present at the annual meeting. On the basis of the recommendation, Chad Crosby was re-appointed as commissioner for 1990.

I realize this is not the method for selecting a commissioner which is described in the 1958 Agreement. My understanding of that procedure is that the State of Utah recommends a person as commissioner to the

State of Colorado and then Colorado either approves or disapproves the Danielson, Jeris A.  
Continued - page 2-

appointment. If Colorado disapproves, they then recommend a person to the State of Utah for approval or disapproval. This process continues back and forth until both States can agree on one person to serve as river commissioner.

I am not sure why this procedure has not been followed in the past, but it can be implemented now. If this is agreeable to you, I will have Lee Sim, Directing Engineer for Distribution, contact Ed Blank to work out the logistics of the appointment process.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Morgan", written in a cursive style.

Robert L. Morgan, P.E.  
State Engineer

RLM:LHS:bd

cc: Bob Leake, Area Engineer Vernal  
Lee Sim, Directing Engr. Distribution